HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Appeal No.1337 of 2006

Between

G.Satyanarayana ..Appellant

AND

The Commissioner of Labour and others ..Respondents

:: JUDGMENT ::

Counsel for the appellant Sri S.Ravindranath

Counsel for respondents Government Pleader for Labour

22.12.2006

Per G.S.Singhvi, CJ

This appeal filed against order dated 18.12.2006 passed by the learned Single Judge in WPMP No.33582 of 2006 in W.P.No.26151 of 2006 whereby he indirectly declined the appellant's prayer for stay of the election to

Executive Committee of Andhra Pradesh State Electricity Board Union–327, can appropriately be termed as a frivolous piece of litigation, which deserves to be dismissed with costs.

In the main writ petition, the petitioner has prayed for restraining respondent No.4 – N.Janardhan, Secretary General, Andhra Pradesh State Electricity Board Employees Union from holding the election scheduled to be conducted on 23.12.2006. He claims to have been elected as Regional President of Vidyut Employees Union in 1975 and as its General Secretary in 1976. That Union merged with respondent No.3 – Union. The appellant is said to have been elected as Additional General Secretary of respondent No.3 in 1983 and as General Secretary for Andhra area in 1997. In April, 1999, he was elected as Secretary General of respondent No.3. He was re-elected to that post in January 2004. In the years 2001 and 2005, the appellant is said to have been elected as General Secretary, APINTUC. On June 26, 2006, President of respondent No.3 is said to have dissolved the Central Executive Committee and replaced it with an ad hoc committee. The grievance of the appellant is that in complete disregard of Section 6 (hh) of the Trade Unions Act, 1926, respondent No.4 issued notification dated 29-11-2006 for holding election to the post of President.

It is borne out from the record that while issuing notice in the main petition and ordering that the same be listed after two weeks, the learned Single Judge declared that any election or nomination made to the Executive Committee of the Andhra Pradesh State Electricity Board Union-327 shall be subject to further orders which may be passed in the writ petition.

Sri S.Ravindranath, learned counsel for the appellant argued that in view of the patent illegality committed in the issue of notice dated 29-11-2006, the learned Single Judge ought to have stayed the process of election. Learned counsel emphasised that if election is allowed to be held, the appellant will suffer irreparable loss.

We have given serious thought to the arguments of the learned counsel, but have not felt impressed. In the main petition, the petitioner has not made a prayer for striking down the notice issued by respondent No.4. Therefore, it is highly doubtful whether, even while granting relief in the main petition, the

Court will be able to nullify the election notice. Even if, for a moment, it is assumed that the Court may ignore the formulation of the prayer clause and accept the appellant's plea that election notice be struck down, his prayer for stay of the election cannot be entertained.

The law is well settled. Interlocutory intervention in the process of election is warranted only when it is meant to sub-serve the ongoing process and not when it obstructs the same. Only in extra-ordinary situation, the Court may exercise its discretion to interfere with the process of election to a body, organisation, institution etc. including a Union of the workers. At the time of final adjudication, the Court can pass appropriate order and nullify the election, but by an interim order, the process of election cannot be frustrated.

The issue of notice by the learned Single Judge in the main petition can, at best, be treated as indicative of the prima facie nature of the case set up by the petitioner-appellant. However, the three other elements, namely, balance of convenience, irreparable injury and the public interest are clearly against grant of injunction. If the process of election is stultified by way of interim intervention of the Court, all those who are aspiring for the post in the Union will be deprived of their legitimate right to compete in the election. That apart, by granting injunction against the process of election, the Court cannot create a situation in which there will be no elective body or office bearer of the Union.

For the reasons mentioned above, we hold that the learned Single Judge did not commit any error by declining to entertain the appellant's prayer for stay of the election notice and the appeal is liable to be dismissed. Ordered accordingly.

For filing a frivolous litigation like the present one, the appellant is saddled with costs of Rs.5,000/-, which shall be deposited with the Andhra Pradesh State Legal Services Authority within a period of one month. The Member Secretary, Andhra Pradesh State Legal Services Authority is directed to inform the Court whether or not the appellant has deposited the amount of costs within the time specified in this order, so that if it becomes necessary, further directions may be given by the Court for recovery of the

amount of costs.

As a sequel to dismissal of the writ appeal, WAMP No.2835 of 2006 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

22-12-2006
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